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Supreme Court, U.S.
FILED
MAY 22 1992
OFFICE OF THE CLERK

No. 91-1807

In the Supreme Court

OF THE

United States

OCTOBER TERM, 1991

STEVEN WEBBER, MARK BALL,
BRAD MAY, NAZIER MAZAREI
and ARAM SHISHMANIAN,
Petitioners,
vs.
GULF OIL CORPORATION, THRIFTY OIL CO.
and CHEVRON U.S.A. INC.,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF IN OPPOSITION OF RESPONDENTS GULF OIL CORPORATION AND CHEVRON U.S.A. INC.

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BRIEF IN OPPOSITION OF RESPONDENTS GULF OIL CORPORATION AND CHEVRON U.S.A. INC.[1]

INTRODUCTION AND SUMMARY OF THE ARGUMENT

As the Petition itself shows, this case presents unique circumstances having no impact upon other cases. Similarly, the legal

[1]Subsequent to the filing of this action, Chevron Corporation acquired Respondent Gulf Oil Corporation. Chevron U.S.A. Inc., a California corporation, was merged into Gulf; the new entity became Chevron U.S.A. Inc., a Pennsylvania corporation. Corporate subsidiaries of Chevron are set forth in Opposition Appendix at A-1.

issues present nothing novel, giving no reason for this Court to grant *certiorari*. In particular:

I. Rather than "departing from the accepted and usual course of judicial proceedings," Petition at 12, the Ninth Circuit followed F.R.App.P. 4(a)(4) and decisions of this Court, dismissing Petitioners' appeal because Petitioners did not file a new notice of appeal after a ruling on Respondent Gulf's post-judgment motion. Petitioners attempt to transform the final judgment into an interlocutory order to argue that their notice of appeal was not premature. But the judgment and the notice of appeal state otherwise. Following decisions from this Court and several circuits, the appellate court properly considered the appealed-from judgment, which resolved all claims of all parties, to be a final decision.

II. Petitioners cannot assert that their Civil Appeals Docketing Statement functions as a notice of appeal, because Petitioners filed it more than 30 days after the district court ruled on Gulf's post-judgment motion.

III. The argument that an appellant represented by counsel should not be held to the standards imposed upon lawyers because *pro se* litigants might be accorded greater leniency in procedural matters does not a raise an equal protection issue meriting this Court's review.

ADDITIONAL FACTS PERTINENT TO CONSIDERATION OF THE PETITION

Much of Petitioners' argument is premised upon the manipulation of dates and occurrences to suit their present needs. The following timeline of relevant dates will clarify why this is not an appropriate case for *certiorari:*

On September 18, 1989, the district court entered its order dismissing all claims of all parties.

On October 16, 1989, Petitioners filed their Notice of Appeal, stating that they "hereby give notice that they will appeal this Court's Order dismissing the entire action . . . ." Opposition Appendix, B-1. From the start then, even Petitioners recognized that they were appealing a final decision.

On October 26, 1989, the district court entered its order denying Respondent Gulf's Rule 52(b) motion to amend. Opposition Appendix, C-1. Petitioners filed no new notice of appeal thereafter.

On December 5, 1989, Petitioners filed the Docketing Statement which they claim serves as the "functional equivalent" of a notice of appeal.

Petitioners' deceptive argument that November 13, 1989, is the appropriate date from which to take an appeal must be rejected. In addition to the motion by Gulf, respondent Thrifty had made a separate and different motion to correct an inadvertent error in the judgment, to reflect that the counterclaims and cross-claims were dismissed without prejudice, rather than with prejudice as the order originally inadvertently read. The district judge acknowledged the inadvertent error and granted that motion, stating that so correcting the judgment was a ministerial matter. Accordingly, the Amended Judgment entered on November 13, 1989, does not trigger any new time period for appeal.

REASONS FOR DENYING THE WRIT

I. No Deviation from Established Statutory and Judicial Procedures

The record refutes Petitioners' contention that the Ninth Circuit departed from established procedures in dismissing the appeal. A ruling which resolves all claims of all parties is a final, not an interlocutory decision. *Catlin v. United States,* 324 U.S. 229, 233 (1945); *United States ex rel Burton v. Greer,* 643 F.2d 466, 469 (7th Cir.), *cert. denied,* 454 U.S. 851 (1981); *Young Properties Corp v. United Equities Corp.,* 534 F.2d 847, 851 (9th Cir.), *cert. denied,* 429 U.S. 830 (1976). The district court's order plainly dismissed "the entire action, including counter-claims and cross-claims. . . ." Thus, Petitioners' argument that the decision they appealed from was interlocutory (contrary to what they themselves stated in their Notice of Appeal) because the district court dismissed *their* claims for injunctive relief is incorrect. In dismissing all other claims as well, the district court rendered a final decision.

F.R.App.P. 4(a)(4) explicitly provides that "a notice of appeal filed before the disposition of [a motion under F.R.Civ.P. 52(b)] shall have no effect." Respondent Gulf's post-judgment motion under F.R.Civ.P. 52(b) was ruled upon by order entered on October 26, 1989. However, Petitioners had filed their notice of appeal ten days *earlier*, on October 16, 1989, and in the ensuing 30 days did not file any document which could serve as a new notice of appeal. This Court has made clear that the failure to file a new notice is jurisdictional. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 61 (1982).

In dismissing the appeal, the Ninth Circuit specifically stated that Gulf's post-judgment motion "tolled the time for appeal" and referenced F.R.App.P 4(a). Petition at Appendix, 19a. Thus it is clear from the record that, contrary to Petitioners' contention, the court of appeals followed the plainly stated rules and procedures. There is no basis for granting *certiorari* on the ground that the court of appeals sharply departed from the accepted and usual course of judicial proceedings.

II. Petitioners' Lack of Standing to Challenge the Court of Appeals' Decision Concerning the Civil Appeals Docketing Statement

Forty days after the district court denied Gulf's post-judgment motion, Petitioners filed with the court of appeals a Civil Appeals Docketing Statement. Since this docketing statement was not filed within the thirty days required by Fed.R.App. 4(a)(1), Petitioners lack standing to assert that the docketing statement functioned as a notice of appeal. As this Court recently has ruled, even a functional equivalent of a notice of appeal must be timely filed, because the time for filing is jurisdictional. *Smith v. Barry*, 112 S.Ct. 678, 682 (1992).

This conclusion does not change by virtue of the district court's Amended Judgment. In its order dismissing the appeal, the court of appeals carefully distinguished between the motions made by Gulf and Thrifty, properly holding that it was Gulf's motion which tolled the time for appeal. This is because the district court "amended" the Judgment by correcting an inadvertent error so that the document reflected his actual ruling, and such changes

do not toll the time for appeal as do post-judgment motions of the character filed by Respondent Gulf. F.R.App.P. 4(a)(4); *Federal Trade Commission v. Minneapolis-Honeywell Regulator Co.*, 344 U.S. 206, 211 (1952).

III. No Equal Protection Issue

To state Petitioners' equal protection argument is to recognize its inappropriateness for *certiorari*, at least in this case. Petitioners complain because they were represented by counsel, asserting that the court of appeals favors *pro se* parties over those represented by counsel, and that this constitutes an unconstitutional classification based on wealth. Representation by counsel, however, does not necessarily imply discrimination on the basis of wealth; *pro se* litigants are not necessarily indigent. Moreover, the decisions of this Court which raise issues of discrimination based on wealth concern the denial of some right because a party lacked funds, not because he or she possessed them. As the Court noted in *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, 20 (1973), "[t]he individuals, or groups of individuals, who constituted the class discriminated against in our prior cases shared two distinguishing characteristics: because of their impecunity they were completely unable to pay for some desired benefit, and as a consequence, they sustained an absolute deprivation of a meaningful opportunity to enjoy that benefit." Petitioners cite no cases for the proposition that a party should be held to a *lower* standard of representation because he or she is represented by counsel, and this Court should not use such as a basis for granting *certiorari* here.

IV. No Other Reason for Certiorari

Petitioners point to no conflict among the circuits, compelling issue of national importance, or other reason justifying *certiorari*.

CONCLUSION

For the foregoing reasons, *certiorari* should be denied.

Dated: May 22, 1992.

Respectfully submitted,

JACK D. FUDGE
Counsel of Record
RALPH ZAREFSKY
BAKER & HOSTETLER,
McCUTCHEN BLACK

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MICHAEL T. ZARRO
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HARRISON
Attorneys for Respondents
Gulf Oil Corporation and
Chevron U.S.A. Inc.

OPPOSITION APPENDIX A

CORPORATE SUBSIDIARIES OF CHEVRON

A.K. Chemie G.m.b.H.

Action Service Stations Limited

Aditivos Mexicanos, S.A. de C.V.

Aircraft Fuel Supply B.V.

American Overseas Petroleum Limited

American Personnel Services Inc.

Arabian Chevron, Inc.

Associated Octel Company (Plant) Limited

Associated Octel Company (South Africa) (Proprietary) Limited

Atlas Supply Company

B.V. Chevron Centrale Laboratoria

Bermaco Insurance Company Limited

BGD Company

Britama Tankers Limited

Britamco Limited

C-W Properties, Inc.

Cabinda Gulf Oil Company

Cabinda Gulf Oil Company Limited

California (Nigeria), Incorporated

Calson (Bermuda) Limited

Caltex Petroleum Corporation

Cansulex Limited

Canyon Reef Carriers, Inc.

Cayman Kewanee Limited

Chandeleur Pipe Line Company

Chevron (Bermuda) Investments Limited

Chevron (Sahul) Pty. Ltd.
Chevron (U.K.) Offshore Investments Limited
Chevron Agricultural Chemicals, Ltd.
Chevron Alaska Pipe Line Company
Chevron Alpha Company
Chevron Asiatic Limited
Chevron Australia Transport Pty., Ltd.
Chevron Aviation S.A.
Chevron Barreirinhas Exploration Limited
Chevron Belguim Refining
Chevron Canada Enterprises Limited
Chevron Canada Limited
Chevron Canada Minerals Limited
Chevron Canada MTBE
Chevron Canada Resources Limited
Chevron Capital N.V.
Chevron Capital U.S.A. Inc.
Chevron Chemical (Canada) Limited
Chevron Chemical (Far East) Private Limited
Chevron Chemical (FSC)
Chevron Chemical (Hong Kong) Limited
Chevron Chemical Company
Chevron Chemical GmbH
Chevron Chemical International Sales, Inc.
Chevron Chemical S.A.
Chevron Chemical UK Limited
Chevron Chemical, S.A.
Chevron Coal Development Company
Chevron Corporation

Chevron Corporation Long-Term Disability Plan Organization

Chevron Corporation Medical Plan Organization

Chevron Darajat Limited

Chevron Development Company Limited

Chevron do Brasil Ltda.

Chevron do Brasil Participacoes e Empreendimentos Ltda.

Chevron Environmental Health Center, Inc.

Chevron Exploration and Production Services Company

Chevron Exploration Corporation

Chevron Exploration Corporation of Chile

Chevron Exploration North Sea Limited

Chevron Foreign Service Corporation

Chevron Geothermal Company of California

Chevron Germany Inc.

Chevron Hibernia Limited

Chevron Indonesia Oil Company

Chevron Industries, Inc.

Chevron Information Technology Company

Chevron International (Argentina) Limited

Chevron International (Yemen) Limited

Chevron International Chemicals Ltd.

Chevron International Kalumpang Limited

Chevron International Limited

Chevron International Manui Limited

Chevron International Nias Limited

Chevron International Oil Company Limited

Chevron International Oil Company, Inc.

Chevron International Soe Limited

Chevron International Somalia Limited
Chevron International Trading Company
Chevron International Trading Company — West Africa
Chevron Investment Management Company
Chevron Italia Oil Company S.p.A.
Chevron Jambi Inc.
Chevron Land and Development Company
Chevron LNG Shipping Company Limited
Chevron Manning Services (India) Limited
Chevron Marine and Services Company Limited
Chevron Marine Fuel Sales, Inc.
Chevron Mexico Services Inc.
Chevron Mineral Corporation of Ireland
Chevron Minerals Ltd.
Chevron Mountain Front Kuantan Inc.
Chevron Natuna Inc.
Chevron Natural Gas Services, Inc.
Chevron Nauka Inc.
Chevron Nederland B.V.
Chevron Nigeria Limited
Chevron Nile Services Limited
Chevron Niugini Pty. Limited
Chevron Oil (Ireland) Limited
Chevron Oil (Switzerland)
Chevron Oil (TNS) Limited
Chevron Oil (TOGH) Limited
Chevron Oil (TOI) Limited
Chevron Oil Australia Pty. Ltd.
Chevron Oil Company (Nigeria) Limited
Chevron Oil Company of Australia

Chevron Oil Company of Chad
Chevron Oil Company of Egypt
Chevron Oil Company of Gabon
Chevron Oil Company of India
Chevron Oil Company of Ireland
Chevron Oil Company of Japan
Chevron Oil Company of Korea
Chevron Oil Company of Sudan
Chevron Oil Company of The Netherlands
Chevron Oil Field Research Company
Chevron Oil Finance Company
Chevron Oil Latin America, Inc.
Chevron Oil Service Company
Chevron Oil Trading Company
Chevron Oil, Sociedad Anonima
Chevron Overseas (Albania) Limited
Chevron Overseas Company
Chevron Overseas Finance Company
Chevron Overseas N.W. Natuna Block 1 Ltd.
Chevron Overseas Petroleum Inc.
Chevron Overseas Petroleum Limited
Chevron Pacific Exploration, Inc.
Chevron Pension Fund Trustee Company Limited
Chevron Petroleum (U.K.) Limited
Chevron Petroleum Company Limited
Chevron Petroleum Company of Colombia
Chevron Pipe Line Company
Chevron Product Carriers Corporation
Chevron Quimica Latinoamerica, S.A.
Chevron Raven Ridge Pipe Line Company

Chevron Real Estate Management Company
Chevron Research and Technology Company
Chevron Research Company (Japan) Ltd.
Chevron Resources Company
Chevron Services Company
Chevron Services Company, S.A.F.
Chevron Shale Oil Company
Chevron Shipping Company
Chevron Siak Inc.
Chevron Standard Limited
Chevron Stations, Inc.
Chevron Sulawesi Inc.
Chevron Tankers (Bermuda) Limited
Chevron Telecommunications Company
Chevorn Transport Corporation
Chevron Travel Club, Inc.
Chevron U.K. Limited
Chevron U.K. Offshore Exploration Company Limited
Chevron U.S.A. Inc.
Chevron U.S.A. Production Company
Chevron U.S.A. Products Company
Chevron Venezuela Services Inc.
Chevron Worldwide Services, Inc.
Compania Comercial California S.A.
Compania Comercial Conchan S.A.
Compania de Petroleo Chevron S.A.
Compania Minera Chevron de Espana, S.A.
Compania Minera Chevron Dominicana, S.A.
Compania Minera Chevron, Inc.
Compania Petrolera Chevron

Compania Petrolera Chevron, Ltd.

Cornwallis Arctic Oils Limited

Coromandel Fertilisers Limited

Crest Exploration Limited

Curran Petroleum Limited

Deutsche Ortho G.m.b.H.

Dixie Pipeline Company

Douala Gulf Oil Company

Ecuadorian Gulf Oil Company

Explorer Pipeline Company

Far Eastern Petroleum Company Limited

Felix Oil Company

Fuel Marine International Ltd.

Glen Park Gas Pipeline Company Limited

Glenwood Properties

Global Energy Operations and Management Company, Ltd.

GOC Acquisition Corporation

Golden Bear Operating Company Limited

Gulf Agricultural Chemicals Company Limited

Gulf Kuwait Company

Gulf Oil (Great Britain) Limited

Gulf Oil (Ireland) Limited

Gulf Oil Communications Company, Inc.

Gulf Oil Company of Gabon

Gulf Oil Company — Eastern Hemisphere

Gulf Oil Corporation

Gulf Oil Egypt Limited

Gulf Oil Finance N.V.

Gulf Oil North Sea Limited

Gulf Oil of Colombia Limited

Gulf Oil Ras Al-Khaimah Limited

Gulf Oil Refining Limited

Gulf Oil Services, Inc.

Gulf Oil Shadwan Limited

Gulf Oil Suez Limited

Gulf Oil Terminals (Ireland) Limited

Gulf Oil Zaire S.A.R.L.

Gulf Oman Petroleum Limited

Gulf Reston Properties, Inc.

Hibernia Management and Development Company Ltd.

Horizon Gold Corporation

Huntington Beach Company

Huntington Seacliff Corporation

Hydrant Servicing Company Limited

Hyson (Nigeria) Limited

Indian Additives Ltd.

Insco Limited

Insecticidas Ortho, S.A.

Internacional de Basicos y Quimicos, S.A. de C.V.

International Bitumen Emulsions Corporation

International Gas Transportation Company Limited

Iran Chevon Oil Company

Iranian Oil Participants Limited

Iranian Oil Services (Holdings) Limited

J.H. Taylor Gas Company

Kelmac, Inc.

Kenai Pipe Line Company

Kewanee Industries, Inc.

Kewanee Oil Company (U.K.) Limited

Kewanee Overseas Oil Company

Kupan International Company Pension Plan Trustees Limited

Kuwait Oil Company Limited

Lorco Oils (North) Limited

Mainline Pipelines Limited

Mansion Properties, Inc.

Mene Grande Oil Company

Mid-Valley Pipeline Company

Murvale Company

Natuna Gulf Oil Limited

Nippon Petroleum Detergent Company, Limited

North West Shelf Liaison Company Pty. Ltd.

Northwest Shelf Shipping Service Company Pty. Ltd.

Norwegian Gulf Exploration Company A/S

NPRC Management Corporation

Octel Societe Anonyme

Oronite Japan Limited

P. T. Caltex Pacific Indonesia

Pacific Coast Homes

Pacific Oil Company

Paloma Pipe Line Company

Pembroke Capital Company Inc.

Petroleum Buildings, Inc.

Plantation Pipe Line Company

Platte Pipe Line Company

PLEXCO

Powell Bend Mining Co.

Productos Quimicos Registrados de Chevron, S.A.

Quimicas Ortho De California, Limitada

Refineria Petrolera de Guatemale-California, Inc.

Rimbey Pipe Line Co. Ltd.

River Nile Petroleum Company Limited

SARACO S.A.

Sepulveda Properties, Inc.

Servicios Chevron, S.A. de C.V.

Societa Italiana Additivi per Carburanti SpA (S.I.A.C.)

Societe d'Etude et d'Exploitation de la Raffinerie du Tchad

Societe Octel-Kuhlmann

Solvent Refined Coal International, Inc.

South Pacific Chevron Company

Sovereign Pension Trustee Limited

Sovereign Service Stations Limited

Standard Gas Company

Standard Gasoline Company

Standard Oil Company

Standard Oil Company

Standard Oil Company

Standard Oil Company

Standard Oil Company

Standard Oil Company

Standard Oil Company

Standard Oil Company

Standard Oil Company

Standard Oil Company

Standard Oil Company of British Columbia (1981) Limited

Standard Oil Company of California

Standard Oil Company of Delaware

Standard Oil Company of Texas, Inc.

Standard Oil Company, Inc.

Standard Oil Company, Ltd.

Standard Oil Sales Co., Inc.

Standard Pacific Gas Line Incorporated

Standard Pipe Line Company

Sultran Ltd.

Sumatra Gulf Oil, Limited

Sunset Oil Trading Limited

TAR — Tankanlage Ruemlang A.G.

Telegraph Garages Limited

Telegraph Service Stations Limited

The Associated Octel Company Limited

The Chevron and Gulf UK Pension Plan Trustee Company Limited

The London Oil Refining Co. Limited

The Ontario Center

The Pittsburg & Midway Coal Mining Co.

The Western Company

Thornhill Service Station Limited

Tierras e Inversiones Venezuela, C.A.

Transinsco, Inc.

Transocean Chevron Company

Transocean Group, Inc.

UBAG — Unterflurbetankungsanlage Flughafen Zurich

Ukamar Limited

United Kingdom Oil Pipelines Limited

VGS Pipe Line Company

Vinwood Cellars, Inc.
Warren Petroleum Company
Warren Petroleum, Inc.
West Texas Gulf Pipe Line Company
Western Transnav Company
White Nile Petroleum Company Limited
Zaire Gulf Oil Company
166738 Canada Inc.
575 Market Street Building Corporation

OPPOSITION APPENDIX B

FILED: OCT 15 1989, CLERK, U.S. DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

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(818) 888-3553
Attorney for Plaintiffs

CASE NO. CV88-7653 TJH(Bx)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JACK ABADJIAN, MARK BALL, JOSEPH BROWN, JOHN EGHENIAN, BRAD MAY, NASSIR MAZAREI, DONALD PROUSE, AL ROSENSTEIN, ARAM SHISHMANIAN, JOSE SMIDERLE, and STEPHEN WEBBER,
Plaintiffs,

v.

GULF OIL CORPORATION, a Pennsylvania corporation, CHEVRON U.S.A. INC., a Pennsylvania corporation, and THRIFTY OIL CORPORATION, a California corporation,
Defendants.

AND RELATED CROSS-ACTIONS

NOTICE OF APPEAL

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Plaintiffs hereby give notice that they will appeal this Court's Order dismissing the entire action, including counter-claims and cross-claims entered September 18, 1989, and this Court's Order filed September 14, 1989 denying Plaintiffs Motion for Reconsideration.

Dated: October 16, 1989

KENNETH P. ROBERTS
A PROFESSIONAL LAW CORPORATION

BY: _____
Michael B. Smith
Attorney for Plaintiffs

(PROOF OF SERVICE BY MAIL - 1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am a resident of/employed in the aforesaid county, State of California; I am over the age of eighteen (18) years and not a party to the within action; my business address/residence address is: 5850 Canoga Avenue, Suite 400, Woodland Hills, California 91367. I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service, and the fact that correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business. On October 16, 1989, I served the foregoing Notice of Appeal on interested parties in this action by placing a true copy thereof, enclosed in a sealed envelope on this date at Woodland Hills, Ca 91367 and placed for collection and mailing on this date following ordinary business practices addressed as follows:

Jack D. Fudge, Esq.
McCutchen, Black, Verleger & Shea
600 Wilshire Boulevard
Los Angeles, Ca 90017

Leighton Anderson, Esq.
Morgan, Lewis & Bockius
801 S. Grand Avenue
Suite 2200
Los Angeles, Ca 90017

I certify (or declare) under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

October 16, 1989.

LINDA LOY

Linda Loy

OPPOSITION APPENDIX C

FILED: OCT 24 1989, CLERK, U.S. DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
ENTERED: OCT 26 1989, CLERK, U.S. DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

DONALD C. SMALTZ
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THEODORE G. SPANOS
MORGAN, LEWIS & BOCKIUS
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801 South Grand Avenue
Los Angeles, California 90017-3189
Telephone: (213) 612-2500
Attorneys for Thrifty Oil Co.

Case No. CV 88 7653 TJH(Bx)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JACK ABADJIAN, MARK BALL, JOSEPH BROWN, JOHN EGHENIAN, BRAD MAY, NAS MAZAREI, DONALD PROUSE, AL ROSENSTEIN, ARAM SHISHMANIAN, JOE SMIDERLE and STEPHEN WEBBER,

Plaintiffs,

vs.

GULF OIL CORPORATION, a Pennsylvania corporation, CHEVRON U.S.A. INC., a Pennsylvania corporation and THRIFTY OIL COMPANY, a California corporation,

Defendants.

AND COUNTERCLAIM AND CROSS-CLAIM.

ORDER DENYING GULF'S MOTION TO AMEND THE JUDGMENT

The Court, having read and considered the "Notice of Motion and Motion By Gulf Oil Corporation [et al.] Pursuant To F.R.C.P. Rule 52(b) To Amend the Judgment Filed Herein on

September 14, 1989," together with all pleadings and papers filed in support of and in opposition to said motion, and having heard the argument of counsel when the matter was called regularly for hearing on October 16, 1989, and for good cause shown.

Said motion shall be, and hereby is, DENIED.

IT IS SO ORDERED.

DATED: October 23, 1989

TERRY J. HATTER, JR.

Terry J. Hatter, Jr.
U.S. District Judge

Presented on October 18, 1989, by:

DONALD C. SMALTZ
LEIGHTON M. ANDERSON
MORGAN, LEWIS & BOCKIUS

By LEIGHTON M. ANDERSON

Leighton M. Anderson
Attorneys for Thrifty Oil Co.

PROOF OF SERVICE BY MAIL

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 801 South Grand Avenue, Los Angeles, California 90017.

On October 18, 1989 I caused the foregoing document, described as [PROPOSED] ORDER DENYING GULF'S MOTION TO AMEND THE JUDGMENT to be served by mail upon the person shown below, by placing a true and correct copy thereof in an envelope addressed as follows:

Jack D. Fudge, Esq.
McCutchen, Black, Verleger & Shea
600 Wilshire Boulevard
12th Floor
Los Angeles, CA 90017

Kenneth P. Roberts, Esq.
A Professional Law Corporation
5850 Canoga Avenue
Suite 400
Woodland Hills, CA 91367

Mark MacCarley, Esq.
MacCarley, Phelps & Rosen
A Professional Law Corporation
3800 Alameda Avenue, Suite 1150
Burbank, CA 91505-4331

sealing said envelope, and

a. ☒ placing it for collection and mailing on that same date following the ordinary business practices of Morgan, Lewis & Bockius, at its place of business, located at 801 South Grand Avenue, Los Angeles, California 90017. I am readily familiar with the business practices of Morgan, Lewis & Bockius for collection and processing of correspondence for mailing with the United States Postal Service. Pursuant to said practices the envelope would be deposited with the

United States Postal Service that same day in the ordinary course of business. (CCP § 1013a(3))

b. ☐ placing it (them) with postage thereon fully prepaid in the United States mail at a facility regularly maintained by the United States Postal Service at Los Angeles, California.

Executed on October 18, 1989 at Los Angeles, California. I declare under penalty of perjury under the laws of the State of California and the United States of America that the above is true and correct.

DEBORAH A. HOLLAND	DEBORAH A. HOLLAND
Type or Print Name	Signature

(Check if applicable)

☐ Service on one or more parties is (also) being done by personal service and a proof of service will be filed with the court forthwith.